



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (“PRA”), this notice announces that the Information Collection Request (“ICR”) abstracted below has been forwarded to the Office of Information and Regulatory Affairs (“OIRA”), of the Office of Management and Budget (“OMB”), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden. A *Federal Register* Notice with a 60-day comment period soliciting comments on the ICR was published on May 17, 2022.

DATES: Comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at <https://www.reginfo.gov/public/do/PRAMain>. Please find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the website’s search function. Comments can be entered electronically by clicking on the “comment” button next to the information collection on the “OIRA Information Collections Under Review” page, or the “View ICR—Agency Submission” page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <https://www.reginfo.gov/public/do/PRAMain>.

In addition to the submission of comments to <https://Reginfo.gov> as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the “Commission” or “CFTC”) by clicking on

the “Submit Comment” box next to the descriptive entry for “Qualification Information for Candidates to Advisory Committees and Subcommittees,” at <https://comments.cftc.gov/FederalRegister/PublicInfo.aspx>.

Or by either of the following methods:

- *Mail*: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier*: Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.¹ The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Michelle Ghim, Assistant General Counsel, Commodity Futures Trading Commission, 202-418-5000. Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; email: faca@cftc.gov.

SUPPLEMENTARY INFORMATION:

¹ 17 CFR 145.9.

Title: Qualification Information for Candidates to Advisory Committees and Subcommittees. This is a request for a new information collection.

Abstract: The CFTC's advisory committees were created to provide input and make recommendations to the Commission on a variety of regulatory and market issues that affect the integrity and competitiveness of U.S. derivatives markets. The committees facilitate communication between the Commission and U.S. derivatives markets, trading firms, market participants, and end users. The CFTC currently has five advisory committees. The Energy and Environmental Markets Advisory Committee was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, and subsequently codified in the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*, at 7 U.S.C. 2(a)(15), and is not subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. 1001 *et seq.* The Agricultural Advisory Committee, Global Markets Advisory Committee, Market Risk Advisory Committee, and the Technology Advisory Committee are discretionary committees under the FACA. The Commission also establishes subcommittees that report to advisory committees as needed. Advisory committee and subcommittee members are generally representatives, but depending on the issues to be addressed, the Commission will appoint special government employees and officials from other federal agencies from time to time. Representatives provide the viewpoints of entities or recognizable groups, and they are expected to represent a particular and known bias. On the other hand, special government employees are expected to provide their own independent judgment in committee deliberations and are expected to discuss and deliberate in a manner that is free from conflicts of interest.² Advisory committee and subcommittee members generally serve 2, 3 or 4-year terms, and appointments are made following the establishment of a new subcommittee or as committee or subcommittee vacancies arise.

² 18 U.S.C. 202(a).

The CFTC identifies candidates for advisory committee and subcommittee membership through a variety of methods, including public requests for nominations; recommendations from existing advisory committee members; consultations with knowledgeable persons outside the CFTC (industry, consumer groups, other state or federal government agencies, academia, etc.); requests to be represented received from individuals and organizations; and Commissioners' and CFTC staff's professional knowledge of those experienced in the derivatives and underlying commodities markets. Following the identification process, the CFTC develops a list of proposed members with the relevant points of view needed to ensure membership balance. The Commission then votes to appoint individuals, or specified organizations, to serve.³

The collection of information is necessary to support the CFTC Advisory Committee Program which includes committees, most of which are governed by the FACA, and subcommittees that report directly to the CFTC FACA committees, as noted above. Pursuant to the FACA, an agency must ensure that a committee is balanced with respect to the viewpoints represented and the functions to be performed by that committee. Consistent with this, in order to select individuals for potential membership on an advisory committee, the CFTC must determine that potential members are qualified to serve on an advisory committee and that the viewpoints are properly balanced on the committee. The CFTC is also required to ensure that committee members are properly designated as special government employees or representatives.⁴ While CFTC subcommittees are not subject to the FACA, the selection process for subcommittee members who are not already serving on the parent committee is similar to that of new committee members. Additionally, the agency follows similar member selection procedures for the agency's non-FACA committee.

³ Appendix A to subpart C of 41 CFR 102-3, the Federal Advisory Committee Management Final Rule notes that the FACA does not specify the manner in which advisory committee members must be appointed.

⁴ See, OGE DO-04X9, DO-04-022, and DO-05-012.

CFTC staff would use the information collected to determine the experience and expertise of potential advisory committee and subcommittee members, ensure that the membership on a committee or subcommittee is balanced, and ensure that committee and subcommittee members are properly designated as representatives or special government employees.

The CFTC seeks to collect the following information: Information that supports an individual's experience and expertise to serve on an advisory committee or subcommittee, including letters of interest, recommendation letters, nomination letters (including self-nominations), resumes, curriculum vitae or other similar biographical information document. Additionally, information that ensures membership balance (*e.g.*, represented viewpoint category) and appropriate designation of an individual as either a representative or special government employee.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.⁵ On May 17, 2022, the Commission published in the *Federal Register* a notice of a proposed information collection and provided 60 days for public comment on the proposed extension, 87 FR 29855 (“60-Day Notice”). The Commission did not receive any relevant comments on the 60-Day Notice.

Burden Statement: The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 91.

Estimated Average Burden Hours Per Respondent: 1.

Estimated Total Annual Burden Hours: 91.

Frequency of Collection: As needed.

⁵ 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

There are no capital costs or operating and maintenance costs associated with this collection.

(**Authority:** 44 U.S.C. 3501 *et seq.*)

Dated: May 2, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

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